

Atty's 22093

Pat. App. 10/058,633

## REMARKS

The present amendment is submitted in an earnest effort to advance this case to issue without publication.

1. The priority claim acknowledgment in paragraph 13 of PTO-326 is appreciated as is the Examiner's approval of the drawing.

2. The Examiner's objections to claims 11 and 15 were well taken and appropriate correction has been made.

3. Claims 1 through 16 are believed to be allowable. The Examiner has rejected claims 1, 2 and 8 through 11 as being obvious from the AAPA in view of Buchman and the remaining claims on that combination, further in view of Simonetti et al.

Reconsideration of that rejection is respectfully requested.

The Examiner has analyzed the AAPA as set forth in the specification (page 1, line 16 through page 2, line 16 and has noted that the AAPA "lacks the specific teaching of the welding station having at least two separation-welding elements".

The Examiner then evaluates Buchman and concludes that it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified the AAPA method

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Reconsideration of the rejection is required on this ground alone.

However, Applicants believe that the Examiner may have misinterpreted the Buchman reference in any event.

Note that the separation-welding elements as defined in the claims is defined as carrying out a step in which they that "seam and separate individual bags ..." or are elements which are "adapted to seam and to separate ..." the bag from the web.

The seal bars 260 in Buchman are not separation-welding elements but rather are welding elements which seal the foil and do not at all separate individual bags from the web. At column 6, lines 9 to 50, it is clear the bags are not separated from the web but rather that the web is only perforated so that the bags can be torn therefrom. The elements 260 do not run transversely to the web and move up and down. For that purpose, the welding elements must be horizontal or substantially horizontal and in Buchman the bars 260 run vertically to generate vertical weld seams (FIG. 6, col. 5, line 41).

A further distinction is that in Buchman with the two welding elements 260 at each stroke only a single bag is formed. The reference at page 5, line 50 indicating that multiple welding elements or multiple seal bars can be provided is intended to provide bars operating at different temperatures. In other words, at the lateral edges 13, 15 of an individual bag (see FIG. 1) different conditions can be established.

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and apparatus by having provided at least two separation-welding elements as taught by Buchman...

Applicant does not agree with the Examiner's analysis of Buchman and believes that the Examiner, upon reconsideration, will find that Buchman does not disclose separation-welding elements as recited by Applicant. However, that discussion is temporarily reserved while Applicant deals with the issue of obvious modification of the AAPA.

Key to any obviousness rejection is the requirement that there be at least a suggestion in one or another of the references that the modification or combination should be made. The Examiner is referred to Ashland Oil Inc. v. Delta Resin & Refractories, Inc., 227 USPQ 657.

Try as Applicant may, Applicant cannot find anywhere in the description of the prior art in this specification any suggestion of the modification wherein the welding station has at least two separation-welding elements as recited in the claims.

Turning to the Buchman reference, Applicants again cannot see any suggestion of two separation-welding elements which could be used in combination with the AAPA or any teaching that the AAPA itself could or should be modified in any way whatsoever. In short, the modification proposed by the Examiner would not have been obvious at the time the invention was made from any teaching in the secondary reference or something which was included in the AAPA.

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With the system of the invention having at least two quite differently functioning and structured separating welding elements, it is possible with each stroke to produce two bags, thereby doubling the production rate.

The Buchman reference, therefore, does not suggest a multiplication of the AAPA to provide at least two separation-welding elements or, for that matter, separation-welding elements at all. The rejection of claims on a combination of Buchman with the AAPA must fail.

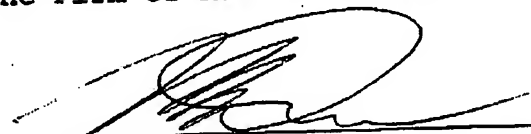
4. The addition of Simonetti et al to the combination does not change the fact that the original combination cannot stand against any claim in the case. Nevertheless, Applicants note that Simonetti has a knock off device but that knock off device is not oriented with respect to the conveyors as claimed anyway. The addition of Simonetti does not create a combination upon which any claim can be properly rejected here.

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The Examiner is, therefore, respectfully requested to reconsider the rejection of claims 1 to 16 and to withdraw it. Favorable action is awaited.

Respectfully submitted,  
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